

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2008-001553

09/29/2008

HON. RANDALL H. WARNER

CLERK OF THE COURT

C. Danos

Deputy

IN RE THE MARRIAGE OF
EMILY ALONZO

EMILY ALONZO
16747 W ADAMS ST
GOODYEAR AZ 85338

AND

STACY A ALONZO

GREGORY A RIEBESEHL

TAWNIA RAE WIENKE

MINUTE ENTRY

Courtroom 911 -- East Court Building

Prior to commencement of proceeding, petitioner's exhibits 1 through 5 are marked for identification.

9:03 a.m. This is the time set for evidentiary hearing on petition to modify. Petitioner/Mother is present with counsel, Tawnia Rae Wienke. Respondent/Father Stacy A. Alonzo is telephonically present and represented by counsel, Gregory A. Riebesehl.

A digital audio recording of this proceeding is being made by the "For the Record" recording system in lieu of a court reporter.

Mother's counsel having made an oral motion to withdraw with consent,

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IT IS ORDERED withdrawing Tawnia Rae Wienke and her law firm as counsel for petitioner.

Stacy A. Alonzo is sworn and testifies telephonically.

Emily Alonzo is sworn and testifies.

Petitioner's exhibits 1 through 5 are received in evidence.

Respondent's exhibit 6 is marked for identification and received in evidence.

IT IS ORDERED that this matter is deemed submitted and taken under advisement.

FILED: Hearing Worksheet.

9:39 a.m. Matter concludes.

LATER:

This matter is under advisement following an evidentiary hearing on September 29, 2008.

On November 29, 2007, Respondent/Father filed a petition to modify custody, parenting time and child support. This court subsequently dismissed the petition as to custody, and an evidentiary hearing was set on parenting time and child support.

The parties reached full agreement on parenting time following a parenting conference. The court has incorporated into this minute entry the agreed language contained in the Parenting Conference Memorandum, except as modified by the parties on the record at the hearing.

IT IS ORDERED:

1. The child will continue to live primarily with Mother.
2. Father shall have two weeks of extended parenting time every summer. In all even-numbered years, Father's extended summer parenting time will include the July 4th holiday. Father is to provide Mother with at least thirty days advance notice of his desired dates for summer parenting time.
3. Father may also have an additional one-week period of "floating" vacation parenting time that he may exercise during either the child's spring school break period or the summer

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months. He is to provide Mother with at least thirty days advance notice of his intent to exercise his additional one-week “floating” parenting time period. If Father chooses to exercise that additional week during the spring school break period in a year when Mother’s family will be visiting at that same time, then Father will have the portion of the spring school break period that does not conflict with the visit by Mother’s family.

4 In even-numbered years, the child will be with Father for Christmas Eve and Christmas Day, and for a portion of the winter school break period as will be mutually agreed between the parents. Mother will have Christmas Eve and Christmas day in odd-numbered years.

5 Whenever Mother might travel to the Chicago area with the minor child, she will notify Father of such plans at least thirty days in advance, so that the parents may make arrangements for Father to spend time with the child during Mother’s visit to Chicago.

6 If Father should travel to Arizona, he will give Mother at least thirty days advance notice of such plans so that he and Mother may discuss arrangements for Father to spend time with the child while Father is in Arizona.

7 Each parent may have reasonable open telephonic access with the child when he is in the care of the other parent. Father will telephone the child at least once per week during the work week, and the child will telephone Father at least once each weekend. However, Father may telephone to speak with the child as often as he wishes, and Mother may telephone to speak with the child as often as she wishes. If either parent is aware that the child will not be available to accept an expected phone call from the other parent for any reason, that parent will notify the other parent as soon as possible so that alternative arrangements can be made for telephone access.

8 When the child is visiting with Father in Chicago, if circumstances arise, for any reason, such that Father will be unable to provide direct care for the child for a period of more than six consecutive hours, Father will make arrangements for the child to be in the care of extended family members.

9 Mother agrees to provide Father with a bi-weekly e-mail report of the child’s recent activities, so that Father may have that information available when he next talks with the child.

10 Mother agrees that she will keep Father fully informed of any major developments in the child’s life, such as with respect to his education, medical and health care, religious training and extracurricular activities.

11 The parents agree that when 30 days notice is required for informing the other parent of parenting time requests and arrangements, that advance notice is to be accomplished by

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telephone, with e-mail backup. It is further agreed that the other parent will be expected to reply to the 30 days notice within 14 days, also by telephone and with e-mail backup.

The only disputed issue is child support. The court adopts and incorporates as its findings regarding child support the child support worksheet filed with this order. Regarding the disputed issue of Father's income, the court finds that Father's income is \$3,607 per month. This is calculated by multiplying his hourly rate of \$19.25 by 40 hours per week and 4.333 weeks per month, and then adding \$270 per month for overtime. Regarding mother's child care costs, the court finds Mother's testimony credible that her average monthly child care expense is \$571 per month. Using these figures, Father's child support obligation is \$493 per month.

Father argues for retroactive application of the modification to the filing of the petition. Mother objects to retroactive application on the ground that Father's child support for the past several years were based on an income figure of \$40,000 when, in fact, his tax returns show that he made approximately \$70,000 per year in 2005 and 2006.

The court agrees with Mother. Because of Father's increased income during 2005 and 2006, good cause exists to make the modification prospective only. A.R.S. § 25-503(E).

IT IS ORDERED granting the petition to modify child support and modifying Father's child support obligation as set forth in this order.

IT IS FURTHER ORDERED that, effective October 1, 2008, Father shall pay Mother child support in the amount of \$493 per month plus \$2.25 per month as and for the Clearinghouse Handling Fee, for a total of \$495.25 per month, on the first of each month through the Support Payment Clearinghouse.

All payments shall be paid through the Support Payment Clearinghouse, P.O. Box 52107, Phoenix, AZ 85072-2107.

ISSUED & FILED: Child Support Worksheet.

LET THE RECORD REFLECT an Order of Assignment is initiated electronically by the court this date.

Any change in the paying party's employment and any change in the residential address of either party must be submitted to the Clerk's Office, in writing, within 10 days of the change (A.R.S. § 25-322(C)). Failure to notify the Clerk's Office of any change may be considered contempt of court.

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Finally, attorneys' fees. The court finds that the parties' relative economic circumstances do not justify a fee award for either party. The court further finds that neither party took an unreasonable position.

IT IS ORDERED that each party bear his/her own attorneys' fees.

FILED: Exhibit Worksheet.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/ s / HON. RANDALL H. WARNER

JUDICIAL OFFICER OF THE SUPERIOR COURT

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.